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JUN 01 2004

OFFICE OF PETITIONS

In re Application of :
Swenson et al. :
Application No. 10/675,890 : DECISION ON PETITION
Filed: September 30, 2003 :
Attorney Docket No. 104362-1 :
:

This is a decision on the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S) CONSIDERED AS NOT RECEIVED BY THE P.T.O. RESPONSE TO NOTICE OF INCOMPLETE APPLICATION," filed April 12, 2004. Petitioners request that the Office accord the above-identified application a filing date of September 30, 2003.

Application papers in the above-identified application were deposited on September 30, 2003. However, on March 17, 2004, the Initial Patent Examination Division mailed applicants a NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION. Applicants were thereby notified that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition (and petition fee). Applicants assert that the items indicated as omitted, the drawings, were in fact deposited with the P.T.O. with the original application papers filed on September 30, 2003. In support thereof, applicants submitted a copy of their return postcard from the USPTO.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on September 30, 2003, and the items filed therewith were assigned Application No. 10/675890; 2) it specifically identifies the items being filed, including "12 SHEETS OF FORMAL DRAWINGS" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 12 sheet of formal drawings, were filed on September 30, 2003.

Accordingly, the petition is GRANTED.

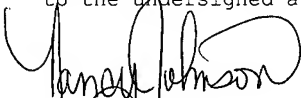
Given the basis for granting the petition, petitioner's request to refund the petition fee is granted. The refund of the fee paid by credit card will be processed by the Finance Department.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of September 30, 2003 using the application papers received in the Office and presently accorded that date; and the 12 sheets of drawings resupplied on petition filed April 12, 2004; and
- for indication in Office records that 12 sheet of drawings were present in the application on filing.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

Telephone inquiries related to this decision should be directed to the undersigned at 703-305-0309.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions